

PAKISTAN

@Arrests and torture of political activists

Introduction

Thousands of supporters of the Pakistan Democratic Alliance (PDA) were arrested in different parts of Pakistan on 17 November 1992 and on the following days, before and during a demonstration called by the PDA. Another mass arrest was reported to have taken place on 22 December in Islamabad. Several hundreds of those arrested were believed to be prisoners of conscience held solely for the peaceful exercise of their right to express their political opinions or their membership in an opposition party. Other prisoners of conscience arrested before and during the demonstration included several journalists and 12 members of a human rights organization who were monitoring the events and not taking part in the demonstration. Scores of demonstrators were injured by the police and several opposition members and journalists covering the arrests were reportedly subjected to torture. Legal changes brought about in November and December 1992 removed some of the legal safeguards previously available to political prisoners. On 29 December the government announced it would restore some of the safeguards.

Background

Amnesty International has received reports of mass arrests of political opponents ever since the government of Prime Minister Mian Nawaz Sharif assumed office in November 1990. The first mass arrests of members of the Pakistan People's Party (PPP) occurred in December 1990 and January 1991, followed by mass arrests in June, August and November 1991. Amnesty International expressed its concern about these arrests of political activists, many of whom it believed were prisoners of conscience, and about allegations of torture, including rape, of political prisoners in police custody in its report Pakistan: Arrests of political opponents in Sindh province, August 1990 - early 1992 (AI Index ASA 33/03/92), issued in June 1992.

In May 1992 hundreds of PPP members were reportedly arrested when they protested against alleged vote-rigging in a by-election in Sindh. In July several dozen PPP activists were arrested in Karachi where a demonstration against the government was to take place.

Mass arrests of political opponents in November and December 1992

The PDA, an opposition alliance dominated by the PPP, called for a "long march" on 18 November 1992 from Rawalpindi to the federal parliament in Islamabad, some 12 miles away. The march and rally in Islamabad were to express the demand of the PDA for the formation of a "national consensus government" pending fresh elections. Though the march and rally were initially permitted, the federal government on 16 November banned the

assembly of five or more persons and the carrying of arms in Islamabad; the order came in force at once and was to remain in force for two months.

The government then deployed a large number of police and paramilitary personnel to stop all demonstrations and to arrest any one who took part in them. Major approach roads to Islamabad were blocked and barbed wire blockades were erected in the capital.

Beginning on 17 November several thousand PPP members were reportedly arrested in different parts of Pakistan. Some were held for violating the ban on assemblies, but many people were also reportedly arrested in areas in which the assembly of five or more persons had not been declared unlawful.

The government on 20 November declared that over the previous three days some 1,621 persons had been arrested nationwide but Amnesty International believes the actual number of arrests may have been much higher. The prison authorities of Rawalpindi's Adyala Jail were reported to have stated that in that jail alone more than 1,000 people were detained for 30 days for disrupting public order. Arrests were also reported from the North West Frontier Province, Punjab and Sindh. The majority of detainees were reportedly released within hours or days, but many, including a number of PDA members of parliament, were served with 30-day detention orders under the Maintenance of Public Order Ordinance. Some others were charged with sedition and were to be tried by Special Courts for the Suppression of Terrorist Activities. Some people were charged with defying the ban on assembly.

Benazir Bhutto, co-chairperson of the PPP and leader of the opposition in the federal parliament, was banished from Islamabad for 30 days. She was forcibly removed to Karachi. A government spokesman said that she had been taken into "protective custody", though hundreds of witnesses saw her being removed from Islamabad against her will. The provincial government of the North West Frontier Province, where Benazir Bhutto intended to stage another protest march, also banned her from the province for 30 days. Both bans were, however, lifted a few days later.

Many of the persons arrested may be prisoners of conscience, detained solely for their membership in an opposition party or peacefully exercising their right to expressing their political opinion. While the government described the participants of the march as set to overthrow the government by violent means, most reports indicate that the protesters were unarmed.

One particular instance may serve to illustrate the arbitrary nature of the arrests of prisoners of conscience. On 18 November police arrested a team of 12 members of the non-governmental Human Rights Commission of Pakistan (HRCP) which had arrived in Islamabad to monitor human rights violations during the demonstrations. The HRCP team,

among them several prominent human rights lawyers of Pakistan, were taken to Margalla Police Station where they were held for over 30 hours in a cell measuring 9x9 feet together with three other detainees. The space was too small for them to lie down so they could only sleep in shifts. No bedding or food was provided by the police. The detainees were not shown any detention orders and no grounds for keeping them in police custody were communicated to them. Contacts with lawyers and friends could only be established with great difficulty. At the intervention of foreign journalists and diplomats, the administration ordered the release of the two women members of the team in the evening of 19 November, while the other members were to be taken to Adyala Jail to be detained for 30 days. When the two women members, Asma Jahangir and Shahtaj Qizilbash, refused to leave without their colleagues, the administration decided several hours later to release all the team members. Only when they were about to leave the police station just before midnight of 19 November, were they served with detention orders under a preventive detention law.

On 22 December several hundred PDA members were reportedly arrested when they peacefully demonstrated near the parliament building in Islamabad while President Ghulam Ishaq Khan addressed the opening session of parliament. Earlier police had laid barbed wire barricades on all roads leading to the parliament building and banned all public and private transport in the capital. The PPP secretariat building was raided in the early hours of the morning, reportedly without any search warrant, and some 40 PPP workers present there were arrested. Most were reportedly released within hours.

Torture of political prisoners

Amnesty International has received several reports that police and paramilitary forces resorted to force in a manner not warranted by the nature of the demonstrations. Scores of PDA activists were injured when police broke up the demonstrations in November by beating them with sticks. Several people detained for their participation in the protest movement were reportedly ill-treated in police custody. Among them were about twelve journalists covering the incidents, including Mariana Baabar of "The News" who was reportedly beaten and verbally assaulted in police custody on 18 November.

Salman Taseer, a senior Bhutto aide and information secretary of the PPP, was reportedly tortured while in police custody in Lahore. In a petition to the Lahore High Court, in which he requested that a case of torture be registered against the Prime Minister and others, Salman Taseer testified that after his arrest on 18 November in Lahore, he "was moved to four different police stations within the period of 24 hours for the purpose of beating, dishonouring and torturing with impunity". At a press conference on 1 December, he said: "I was hanged upside down. I passed out several times during the torture. I don't know for how long they kept me in this manner. My nose started bleeding. Then they lowered me and put an iron bar on my legs. Two plain clothes police men sat on the bar and rolled the bar over my legs crushing the tissues. The soles of my feet were beaten by rubber

tranchons and batons till they swelled like balloons." Taseer further stated that when he attempted to register a First Information Report against the police officers who had tortured him, the Station House Officer in Dharampura Police Station refused to register it.

Former federal minister Mukhtar Awan on 22 December reportedly received head injuries when police hit him with batons while he led a peaceful procession in Islamabad. At year end Awan was in a serious condition in the neuro-surgery ward of the Pakistan Institute of Medical Sciences in Islamabad. Arrested on the same day, a leader of the PPP-associated People's Student Federation, Sohail Malik, was reportedly kicked repeatedly with heavy boots, beaten with electric batons and pistol butts. He said, "... they took me to a separate room where the police made me lie on the floor and beat me with electric batons. They would catch me by my hair, lift me and then throw me down repeatedly. I fell unconscious. They jumped on my whole body." A doctor of the non-governmental Voice against Torture, Organisation for the Treatment and Rehabilitation of Torture Victims, examined Malik and declared he could be left impotent as a result of the torture. He stated that large quantities of blood had collected in Malik's testicles due to the kicking and over a liter of blood had had to be surgically removed.

Legal changes affecting political prisoners

In November and December 1992 legal changes were introduced by the promulgation of two ordinances which limit the rights of prisoners to obtain bail. Amnesty International feared that the rights of political prisoners detained during the mass arrests in November and December may be curtailed by these changes but on 29 December the government announced that it would withdraw one of the ordinances.

On 16 November President Ghulam Ishaq Khan promulgated Ordinance XV of 1992 which rescinds an earlier regulation under which a prisoner continuously held for two years pending trial was to automatically be granted bail. On 14 December the President promulgated the Suppression of Terrorist Activities (Special Courts) Amendment Ordinance 1992 which lays down that only Special Courts for the Suppression of Terrorist Activities may hear bail applications, thereby removing the High Courts' jurisdiction over such bail applications. The ordinance came into force at once but with retrospective effect, in that all bail applications already pending in any court immediately prior to the promulgation of the ordinance are covered by it.

The legal changes have been criticised by several legal associations and human rights groups in Pakistan as an attempt to curb the jurisdiction of the higher judiciary and to deprive prisoners, including political prisoners, of some of their fundamental rights. Over 400 lawyers marched through Lahore on 19 December protesting against the curtailment of powers of the courts. The President of the Lahore High Court Bar Association, Hamid Khan, condemned the ordinance as a "serious transgression of fundamental rights and civil

liberties ... to deprive citizens of their basic rights". The Karachi Bar Association said the right of all accused to bail in pending cases was a privilege which had been withdrawn on politically motivated grounds. The Supreme Court of Pakistan asked the government for an explanation for the ordinance and for a justification of its infringement of the competence of the higher judiciary. The Human Rights Commission of Pakistan in a resolution in December deplored the promulgation of the two ordinances as "an inroad into the rule of law".

Amnesty International is concerned that many of the political prisoners, including prisoners of conscience, arrested during the mass arrests in November and December and charged with offences to be tried by Special Courts for the Suppression of Terrorist Activities, may be adversely affected by the ordinances. One of the political prisoners affected by the promulgation of the ordinance of mid-December is Salman Taseer, who was charged with sedition for having attempted to go to Islamabad to join the opposition march on parliament. Taseer was denied interim bail by the Special Court for the Suppression of Terrorist Activities in Lahore which is to try his case; the possibility to apply for bail to the provincial High Court has now been removed.

Another political prisoner directly affected by the two ordinances is Asif Ali Zardari. Former law minister Syed Iftikhar Gilani declared on 14 December, that "the ordinance is passed just to deny Asif Ali Zardari, MNA [Member of National Assembly], the bail on completion of his two years imprisonment in jail". Asif Ali Zardari, Benazir Bhutto's husband, in detention since October 1990 on a number of criminal charges, was acquitted in five cases by Special Courts for the Suppression of Terrorist Activities, but two cases are still pending. He again applied for bail in October after he was cleared of the charge of planning the murder of 23 people killed in 1990. Having been in jail for two years without conviction, Zardari would have benefited from the provision of automatic granting of bail, had the President not rescinded it immediately before it became applicable to Zardari's case. Moreover the hearing of his bail application in the Sindh High Court had been completed and the decision was awaited. The bail application will now have to be referred back to the lower court for a renewed hearing. The Sindh High Court has, however, reportedly decided to defy the provisions of the Presidential Ordinance and to hear arguments on whether it could still grant bail to Zardari.

The government on 29 December announced it would withdraw the Suppression of Terrorist Activities (Special Courts) Amendment Ordinance 1992.

Amnesty International's concerns and recommendations

Amnesty International is concerned about the arrests of thousands of political prisoners, many of whom may be prisoners of conscience arrested solely for the peaceful exercise of their right to express their political opinion or for their membership in an opposition political

party. Amnesty International urges the Government of Pakistan to immediately and unconditionally release all prisoners of conscience still detained. The organization also calls on the Government of Pakistan to take all necessary measures to ensure that political activists will no longer be subject to arbitrary arrest solely for the peaceful expression of their views.

Amnesty International is also concerned that several people, among them Salman Taseer, Shail Malik and Mukhtar Awan, were reportedly subjected to torture and urges the government to ensure that no one in detention is subjected to torture or cruel, inhuman or degrading treatment or punishment. Some forms of torture are prohibited by the Constitution of Pakistan which lays down in Article 14(2): "No person shall be subjected to torture for the purpose of extracting evidence." Cruel, inhuman or degrading treatment or punishment is prohibited by several international human rights standards. Article 5 of the Universal Declaration of Human Rights says that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Article 2 of the Declaration against Torture reads, "Any act of torture or other cruel, inhuman or degrading treatment or punishment is an offence against human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights". This statement is also found in Article 7 of the International Covenant on Civil and Political Rights.

Amnesty International calls upon the Government of Pakistan to ensure that no one in detention is subjected to torture or cruel, inhuman or degrading treatment or punishment. It also urges the Government of Pakistan to institute an independent and impartial inquiry into the reported cases of torture, to make public the findings of the inquiry and to bring those responsible to justice.

Amnesty International calls upon the Government of Pakistan to ensure that all political prisoners against whom there are criminal charges receive a prompt and fair trial and that all legal safeguards available under Pakistan law are fully and equally applied to them. It is concerned that the recently introduced legal changes remove the right of those political prisoners who are to be tried by Special Courts for the Suppression of Terrorist Activities to apply for bail to the High Courts of the country. Under the Constitution of Pakistan, "All citizens are equal before law and are entitled to equal protection of law" (Article 25(1)). To restrict the right to apply for bail of persons tried by Special Courts for the Suppression of Terrorist Activities violates the principle of equality before law. Amnesty International urges the Government of Pakistan to restore full legal rights to all political prisoners held and tried in Pakistan.